

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

74-1770

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 74-1770

UNITED STATES OF AMERICA,

Appellee

V.

WILLIE JEMISON, JR.,

Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

APPENDIX FOR APPELLANT'S REPLY BRIEF

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1 I think that whatever it was, it would be a whole general idea
2 of whatever it is -- it is a lie. It was involved with people
3 that I don't know. It was involved with people who know that
4 I don't know.

5 And whatever you are pertaining to, I still don't
6 know.

7 Q Is it your being on trial here, for allegedly selling
8 two ounces of cocaine, is that more important to you than me
9 alleging here today that you were involved in a four ounce
10 and a pound sale of cocaine at an earlier date?

11 THE COURT: Well, I think that is an argumen-
12 tative question.

13 MR. BUCKLEY: No further questions.

14 REDIRECT EXAMINATION BY MR. SANTOS:

15 Q Mr. Jemison, on the 14th and 18th of July, when this
16 transaction occurred, did the contact that Yat had with you
17 play any part in your decision to transfer this narcotic?

18 A Yes, he asked me on two or three different occasions,
19 and he also being on drugs, it has a tendency to make you do
20 that to a person that you think is a friend, that could be
21 harmful to him. He informed me that he had just got out of
22 jail for an arrest --

23 MR. BUCKLEY: I object.

24 A -- for marijuana.

25 MR. BUCKLEY: I object to the witness -- please

1 don't answer the question -- it is hearsay.

2 THE COURT: He can ask the question in a
3 different way: Why did you sell it to him?

4 MR. BUCKLEY: I object if the answer incorpo-
5 rates anything that these people said to him. We
6 are getting back to hearsay again.

7 THE COURT: I think it is an integral part of
8 his state of mind. The Court will allow it.

9 Why did you sell it to him?

10 THE WITNESS: I sold him the drugs due to the
11 fact that he had asked me two or three times, and I
12 considered him as a friend, and he told me he had
13 just got arrested, or he had got out on bond, for
14 the sale of marijuana. And at the time, he was
15 trying to raise some money, so that he would be able
16 to pay his way out of jail. And at the self-same
17 time I wanted some for myself.

18 MR. SANTOS: Your Honor, I would like permission
19 to inquire as to the conversation he had with this
20 fellow Yat. The Court has already ruled that I
21 would not be allowed to go into this area, but there
22 is really no other way for us to bring it forth.

23 THE COURT: All right, proceed.

24 MR. BUCKLEY: I object to that inquiry.

25 THE COURT: Your objection --

1 MR. BUCKLEY: The Court has stated --

2 THE COURT: Your objection is overruled. The
3 Court opened the heart of this question, and wants
4 the truth. Let's find it.

5 BY MR. SANTOS:

6 Q Mr. Jemison, on the 14th of July, when you first had
7 Yat come on over to see you, when he contacted you down by
8 Russell's Chicken Place, what did he say to you?

9 A When he first come over, he asked me, you know, did
10 I have the drugs for him? Had I been able to get anything for
11 him?

12 Q This is the first time?

13 A You mean the first time that he met me?

14 Q Yes. Let me set the frame for you: A week before
15 July 14, '72, during the week, during the period of the week
16 prior to the 14th of July, '72, did Yat have any contact with
17 you?

18 A Yes, he contacted me, I would say, two to three
19 times.

20 Q Did he see you in person?

21 A Yes, sir.

22 Q The first time he saw you in person, what did he
23 say to you?

24 A He asked me -- well, he explained to me his problem.

25 Q What was that?

1 A He explained to me that he had just got arrested for
2 some marijuana, and he was out on bond, and he was trying to
3 raise some money for lawyers, or some other offense. This is
4 what he told me. And at the self-same time, cocaine has the
5 tendency to make you have a desire, a drive, a want, a need.

6 Q Just tell us what Yat said to you. Did he ask you
7 to do anything?

8 A Yes, he asked me to see about getting him an ounce
9 of cocaine.

10 Q All right. What did you do after the first request?
11 Did you do anything after the first request?

12 A No, I didn't, sir.

13 Q Did there come a time when he asked you again, within
14 a week's span?

15 A No, it wasn't a week's span. I think the very next
16 day.

17 Q What did he say; what did he want?

18 A He asked me, you know, had I been able to look
19 around and find him anything.

20 Q How did he contact you this time?

21 A He contacted me by phone.

22 Q What did he ask you this time?

23 A He asked me, you know, had I been able to do any-
24 thing? And I told him I would look.

25 Q Did he come to you again?

1 A Yes, he came to me again.

2 Q What did he ask you this time?

3 A He asked me, you know, to try to hurry the deal up,
4 because he wanted to get the stuff while he could raise money
5 for a lawyer.

6 Q This is the third time within a week's span, and
7 Yat approached you again, correct?

8 A Yes.

9 Q Now, at what contact from Yat, the first, second or
10 the third, did you do something?

11 A The third time.

12 Q Tell us the reason why you finally, after the third
13 time, that you went ahead and tried to get the cocaine for
14 Yat?

15 A Well, due to the fact that I had a desire to want
16 some myself, I wanted some for my personal use, and at the
17 self-same time, I thought I was doing him a favor by getting
18 the drugs for him, so he could make whatever obligations he
19 had, that he had told me about, and his marijuana deal that he
20 said they busted him on.

21 Q If it were not for these persistent approaches by
22 Yat, would you have sold any cocaine on the 14th or 18th of
23 July, '72?

24 A I would have to answer that question and say no, I
25 wouldn't have.

1 Q After the first transaction on the 14th of July,
2 did Yat see you again?

3 A Yes.

4 Q Did he make any request of you?

5 A He said that he had almost got the money together
6 that he needed, and could he get the same thing again?

7 Q And did he give you any reason this other time, after
8 the first transaction now, did he give you any reason for it?
9 He had the money for his case, I presume?

10 A No, he told me he didn't have enough money. He told
11 me he had almost got all the money he needed, and he tell me
12 that his cousin -- I think his cousin was supposed to have
13 been trying to help him raise the money, or something like
14 that.

15 Q Is this the cousin that you met on the 14th?

16 A Yes.

17 Q Who you now know is Trooper Esson?

18 A Yes, sir.

19 Q This is the first time he saw you on the 14th of
20 July, that he had this conversation with you? Did he see you
21 again and have another conversation prior to the 18th of July?

22 A Yes, sir.

23 Q What did he say this time?

24 A He told me he had almost got all the money that he
25 needed, and could I do the same thing for him again?

6

1 Q And after that second request, did you do anything?

2 A No, sir.

3 Q Did he see you again?

4 A Yes, sir, he called me.

5 Q And what did he ask you this time?

6 A He told me, he asked me had I got anything for him
7 as of yet, and I told him no. I told him that I would be up
8 by Russell's Chicken -- I think it was sometime in the p.m.,
9 in the afternoon. And him and his cousin came up at that time,
10 and I didn't have the drugs. At that time, I had the drugs,
11 but I had been snorting myself, and it gives you the tendency
12 to be paranoid.

13 Q You are talking about the 18th of July now?

14 A Yes.

15 MR. BUCKLEY: I would like to know what happened,
16 not how he is paranoid. He is not answering the
17 questions.

18 BY MR. SANTOS:

19 Q With reference to the 18th of July, Mr. Jemison,
20 would you have transferred the heroin -- the cocaine, on the
21 18th of July, had it not been for the constant request of Mr.
22 Yat?

23 THE COURT: That is a leading question, Counse-
24 lor. Very leading.

25 MR. BUCKLEY: Your Honor, I let him ask it

1 once; I don't care if he asks it again.

2 BY MR. SANTOS:

3 Q Why did you do it on the 18th? For the same reason
4 that you did it on the 14th?

5 A Yes, sir.

6 Q Why was that?

7 A To get some for my personal use, and to give it to
8 him, so he could get out of jail.

9 Q If today Yat came up to you and asked you to sell
10 him some cocaine, or anyone else, under your present condition,
11 in your present physical condition, would you do it?

12 A No, sir.

13 MR. SANTOS: That's all.

14 RECROSS EXAMINATION BY MR. BUCKLEY:

15 Q Mr. Jemison, is it your custom to sell drugs to
16 someone else's cousin, or to allow someone's cousin in your
17 bedroom when a drug sale takes place, which cousin you have
18 never seen before, or met, when you are paranoid?

19 A No, sir. I never -- it wasn't somebody I just met
20 on the corner. I have been knowing him ever since I was in
21 Hartford.

22 Q Do you know what the word paranoid means, Mr. Jemi-
23 son? To be extremely afraid of someone, or some situation?

24 A Yes, sir.

25 Q Were you extremely afraid of whatever the situation

1 And in his words, he said "I'll check around"
2 and "See me the next day", on two different occa-
3 sions.

4 Now, Trooper Esson's conversation. He used
5 the word "piece". You all know now the street term
6 for cocaine. He went to the secluded area in the
7 restaurant, and they hackled over price. Although
8 650 was about the market price, they went to his
9 apartment. They didn't do it out in the open, and
10 he wanted him to check the stuff, and wanted to see
11 whether he used it or not, to figure out who was
12 dealing with.

13 He had the album, the spoon, the playing card,
14 the mix -- professionalism.

15 He put it back in the bag, and bagged it in
16 the bedroom drawer. He said "I know you'll be back,
17 because the stuff is good." That's what Trooper
18 Esson said he said, after Trooper Esson said that
19 he will be back. Does that sound like he didn't
20 want him back? Is Trooper Esson lying about that?
21 He had a report -- he didn't know what the defense
22 was going to be back two years ago.

23 I submit to you that in both transactions that
24 we have a course of dealing, not a quickie, not a
25 short, quick transaction, where the poor man said

1 "Please leave me alone; I want to get rid of the
2 cocaine; I'll give it to you to get you off my
3 back." If that was all that you had, and you took
4 the Defendant's facts, I submit that you could still
5 find the Defendant guilty beyond a reasonable doubt.

6 But, to make it easier for you, you have a
7 lot more than that. On March 4th, we have extensive
8 negotiations -- I will hit the high points of those
9 in a minute.

10 What is more important, we got the playing
11 card, we got a scale, we got the baggie, and we got
12 the same person, the same Defendant, March 5th,
13 1972, mixing this stuff in an apartment. The ounces
14 were taken out of a pizza box.

15 Now, those four ounces, according to the agents,
16 who did this for a living, undercover, was a large
17 amount of cocaine. I think that is important.
18 Look at the quantities involved. The kind of man
19 who -- he told you he supported his habit, that he
20 didn't support his habit by selling narcotics, he
21 did it by pimping. What was he doing there March
22 5th?

23 I submit to you that he was not a high class
24 junkie; that he was a high class dealer, and he was
25 a professional. And he may have been a pimp, but

1 he was a very good drug dealer. On the days that he
2 talked about, the 14th and 18th, and March 5th, he
3 wasn't out watching women, he seemed to be watching
4 his drugs, as a professional would do. And he must
5 have needed a good profession to support this habit,
6 that he tried to tell you about.

7 I submit that he was a professional. And he
8 was a high class one. But, he was not a junkie.
9 He was a dealer. And the Government has proven
10 that.

11 Now, with respect to the particular transaction
12 in March. You have here not the testimony of one
13 Government agent, who may have a faulty memory --
14 if the defense wants to claim it; I don't know
15 whether they will; they didn't attack any of these
16 men as puffing one bit. We have got two men with a
17 lot of money on them, in an undercover capacity,
18 out of town, with police activity in the area deal-
19 ing with three or four other individuals, one of
20 whom very clearly, from their testimony, is Mr.
21 Jemison.

22 And they meet him in this lounge where Agent
23 O'Brien is. And Mr. Jemison wants to know what is
24 the hassle about? Alfonso Smith is there, and Mr.
25 Jemison says in front of Smith and O'Brien that

11